

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 28 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OMAR AHMAD AYOUB,

Defendant - Appellant.

No. 05-10497

D.C. No.

CR-N-03-0205-HDM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Howard D. McKibben, District Judge, Presiding

Argued and Submitted April 7, 2006
San Francisco, California

Before: SCHROEDER, Chief Judge, TROTT, Circuit Judge, and RHOADES**,
District Judge.

Defendant Omar Ayoub (“Ayoub”), who was convicted by a jury of using
the internet to attempt to coerce and entice a minor to engage in illegal sexual

* This disposition is not appropriate for publication and may not be cited to or
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** Honorable John S. Rhoades, Sr., Senior United States District Judge for
the Southern District of California, sitting by designation.

activity in violation of 18 U.S.C. § 2422(b), appeals his conviction and the denial of his motion for acquittal.

Ayoub's contention that the district court incorrectly instructed the jury is without merit. The instructions offered by Ayoub were redundant (in the case of the knowledge instruction) and unnecessary (in the case of the wilfulness instruction).

Ayoub's challenge to the jury's finding that he was not entrapped and to the district court's refusal to find that he was entrapped as a matter of law is unavailing. Although, as pointed out by Ayoub both at trial and on appeal, the jury could have interpreted the evidence differently than it obviously did, we cannot say that a reasonable jury could not have concluded beyond a reasonable doubt that Ayoub was not entrapped. See United States v. Si, 343 F.3d 1116, 1125 (9th Cir. 2003); see also United States v. Davis, 36 F.3d 1424, 1430 (9th Cir. 1994). Similarly, we cannot say that a reasonable factfinder could not have concluded beyond a reasonable doubt that Ayoub believed that "Marissa" was a minor.

AFFIRMED.